

ORDINANCE NO. NS-2157

AN ORDINANCE AMENDING THE BEND CODE BY REORGANIZING CHAPTER 7 BUSINESSES AS TITLE VII BUSINESSES AND CREATING A NEW TITLE XII REVENUE AND TAXATION

Findings:

- A. The City is in the process of updated the entire Bend Code to reorganize the code, update language and amend provisions to reflect current standards.
- B. Material in the current Chapter 7 both regulates business and also imposes taxes. The Council believes that reorganization to separate tax and financing provisions into separate titles would provide better organization for the code. The proposed changes kept regulatory provisions in the new Title VII and move room tax provisions to a new Title XII.
- C. The room tax provisions are intended to provide more clarity to both users and city staff who administer the room tax, without changing substance.
- D. The existing Chapter 7 contains provisions on drug paraphernalia and payday lenders that are no longer needed given the authority now provided by state statutes.
- E. The amendments adopted by this ordinance create a uniform procedure for regulatory permits.

Based on these findings, the City of Bend ordains as follows:

- Section 1. Except for Sections 7.005 through 7.044, Bend Code Chapter 7 Businesses is replaced by Bend Code Title VII Businesses to read as shown in Exhibit A. Bend Code Sections 7.005 through 7.044 remain in effect.
- Section 2. Bend Code Title XII Revenue and Taxation is adopted to read as shown in Exhibit B
- Section 3. The amendments adopted by Sections 1 and 2 shall apply to actions on or after the effective date of this ordinance. The existing code provisions apply to actions taken prior to the effective date of this ordinance.
- Section 4. All provisions of the Bend Code other than Chapter 7 remain unchanged and in effect.

Read for the first time the 2nd day of March, 2011.

Read for the second time the 16th day of March, 2011.

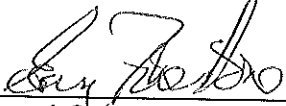
Approved by roll call vote the 16th day of March, 2011.

YES: 7

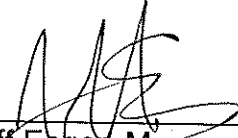
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Authenticated by the Mayor the 16th day of March, 2011

Approved as to form:

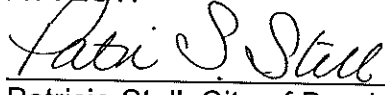


Legal Counsel



Jeff Eager, Mayor

ATTEST:



Patricia Stell, City of Bend Recorder

Exhibit A

TITLE VII - BUSINESSES

CHAPTER 7.05 BUSINESS LICENSES

7.05.010 Purpose

- (1) The purpose of this Chapter is to develop a database of businesses to allow the City to provide services efficiently and to ensure the safety of its residents. The business database also provides useful economic development information.
- (2) The fee required by this Chapter is in addition to all other taxes and fees.

7.05.015 Definitions

- (1) Business means an enterprise, establishment, store, shop, activity, profession, management companies, or undertaking of any nature conducted directly or indirectly for private profit or benefit, whether or not a profit is actually made.
- (2) Non-profit entity means any entity that qualifies as a non-profit entity under federal or state tax law.
- (3) Profit means any monetary income other than salary or wages.
- (4) Public utility means any business regulated by the Oregon Public Utility Commission or federal agency that delivers water, sewer, gas, electric, or telecommunications services within the city.

7.05.020 Requirement to Obtain Business License

- (1) Except as exempted under section 7.05.025, businesses and public utilities must apply for and obtain a business license.
- (2) Non-profit entities must obtain a business license but shall pay a reduced fee as established by Council resolution.
- (3) Where a business is part of a larger entity, the local business manager or owner shall be responsible for obtaining the required license.
- (4) The following provisions apply to the obligation to obtain a business license:
 - (A) Any business that conducts physical activities in the city, whether or not the business operates from a physical location in the city, is subject to this Chapter. Businesses that have their primary business location outside the City but that conduct business activity within the City are required to be licensed under this Chapter.
 - (B) If two or more businesses are carried on at the same premises by the

same individual or entity, one license shall be sufficient for all businesses. The license shall list all included businesses.

- (C) Electronic businesses, including internet businesses, with a physical location in the City, are required to be licensed.
- (D) If more than one business is conducted on the same premises, each business must obtain a separate business license, except as provided in subsection (4)(B) .
- (E) A single business operation that occupies more than one building may obtain a single license. The application and license shall list all buildings and activities carried on in each building.

7.05.025 Exemptions

The following are exempt from the requirement to obtain a business license:

- (1) Any business exempted from paying local business license fees or taxes by federal or state constitution or law
- (2) Religious institutions and governmental agencies
- (3) A service business operated by a person under the age of 18, such as a lawn mowing business, a newspaper delivery business, a lemonade stand, and the like
- (4) Individuals who work only on the premises of, and as part of, a licensed business that includes the activity of the individual are not required to obtain a separate license. Examples include barbers, beauticians, and others who perform services as part of the overall licensed business. This exemption does not apply if the overall business operation has not obtained a business license.
- (5) Persons selling goods or services exclusively during a permitted special event activity where the sponsor of the event has obtained a Special Event Permit and has a business license or is exempt from the business license requirement.
- (6) Charitable organizations that have no physical location in Bend other than a post office box.
- (7) Activities that qualify as hobbies or passive holding of property for investment purposes under the US Internal revenue Code.
- (8) Any person whose business activities, including the activities of all employees, total less than 32 hours per year. This exemption is intended to apply to businesses based outside the city that may do minimal work inside the city and to persons who engage only in minimal business.
- (9) A person who sends goods to a customer in the city is not considered to be doing business in the city based solely on the sending or delivering of the goods

into the city. However, a company in the business of delivering goods is subject to the requirements of this Chapter if the company, including the activities of all employees, is engaged in business (picking up or delivering goods) within the city in excess of 32 hours per year.

7.05.030 License Duration and Transfer of Business or Business Location

- (1) New licenses shall be valid from the date of issuance to the end of the following 12th month and shall be renewable annually in the same month of each following year. The license fee shall not be pro-rated.
- (2) If ownership of a business is transferred during the year, the new owner shall apply for a new business license and pay a separate license fee in the amount established by Council resolution.
- (3) Businesses that change physical location or business name shall notify the City of the change and pay a fee for the change in an amount established by Council resolution.

7.05.035 Application for License

Each person wishing to engage in business shall apply for a business license on City forms. The applicant shall pay the license fee at the time of filing the application. The application shall be filed with the City and shall contain, at a minimum:

- (1) A description of the nature of the Business, Non-Profit activity or Public Utility to be engaged in;
- (2) The date that business operations commenced or will commence;
- (3) The name and address of the applicant; if a partnership, the names and addresses of all partners; if a corporation, its name and the address of the home office, the name and address of the designated agent in the state if a foreign corporation, and the name and address of the local agent or representative who will be in charge of the business in the city;
- (4) The addresses where the business will be located or have its office and all branch, storefront, warehouse and other associated locations within the city limits of Bend;
- (5) The date of application;
- (6) The North American Industrial Coding System ("NAICS") code number;
- (7) A statement of the estimated number of full time, part time or seasonal employees of the business;
- (8) Emergency contact information;

- (9) Any other information the City determines that the application should contain;
- (10) The signature of the applicant or agent making the application;
- (11) If the applicant is a foreign corporation or a non-resident of this state, and no permanent business location is proposed to be created in the city, the applicant shall appoint a local person as an agent for accepting service of a process, notice, or demand. The applicant shall submit the agent's consent to acceptance of service.

7.05.040 Application Review and Effect of Issuance of License

The City shall review and issue licenses. Issuance of a license is not evidence that the applicant is in compliance with, or exempt from, any other provision of law.

7.05.045 Issuance of License

- (1) After receipt of necessary license information and the application fee, the City shall issue the license.
- (2) Any applicant for a business license who has been operating without a license shall pay the applicable fee from the date the business license was required.

7.05.050 Denial of Application

The City will deny a license if the business name implies a relationship with the City.

7.05.055 License Renewal

The application for renewal of a business license shall be made to the City prior to the expiration date.

7.05.060 Compliance with Law

All businesses must comply with all city, state and federal law, and the issuance of a business license does not authorize a business to operate in violation of any other laws.

7.05.065 Appeal

An applicant whose license is denied or who contests any other ruling of the City relating to a business license may file an appeal with the Bend Municipal Court.

7.05.070 Posting of License

All businesses based in buildings whose primary purpose is commercial and all businesses based in vehicles must display the license in public view at all times. For businesses that utilize multiple vehicles, a photocopy of the license shall be required to be on display in public view in each vehicle. Businesses based in buildings that are primarily residential need not publicly display the license but must keep it available for inspection upon reasonable request.

7.05.075 Business License Fee

The fees for all licenses required under this Chapter shall be established by Council Ordinance NS-2157

resolution. Any change in the license fee shall not apply retroactively to a license already in effect.

7.05.080 Violations and Civil Penalties

- (1) Violation of any provision of this Chapter shall be a Class A Civil Infraction, subject to a civil penalty.
- (2) In addition to violations of the specific provisions of this Chapter, the following acts shall constitute a Class A Civil Infraction:
 - (A) Operating a business without obtaining a license as required by this Chapter;
 - (B) Failure to make timely application for a license or license exemption;
 - (C) Making a materially false statement to the City in connection with any requirement of this Chapter;
 - (D) Failure to provide information required by this Chapter.
- (3) Assessment of a penalty under this section is in addition to any other remedy.
- (4) Every day that a business operates without a required license shall be a separate violation.

Chapter 7.08 FALSE ALARMS

7.08.010 Definitions

The following definitions apply in this Chapter:

- (1) Alarm Any electronic or other signal that requests, causes or is intended to cause a response by police, fire or emergency medical personnel; or any assembly of equipment, mechanical or electrical, arranged to signal the occurrence of an illegal entry or other activity requiring urgent attention and to which police, fire or medical personnel are expected to respond.
- (2) Audible alarm Any audible sound produced to signal activation of the alarm.
- (3) False alarm Any alarm eliciting a response by Police, Fire or emergency medical personnel when a situation requiring a response does not, in fact, exist.
- (4) Responsible Party A person that can respond to an alarm activation to allow responding personnel access to the alarm site and has the ability to deactivate or reset the alarm.
- (5) Owner A person, firm, association, or corporation owning, in possession or control of any property that an alarm originates from.

7.08.020 False Alarm Response

When a determination has been made by the City that a false alarm has happened and has caused an unnecessary response, the following procedure shall be followed:

- (1) First False Alarm within a 12 month calendar period: May issue a notice of false alarm and alarm cause documented.
- (2) Second False Alarm within a 12 month calendar period: A written notice shall be issued to the alarm owner, informing owner of the false alarm and notifying owner of possible consequences of additional false alarms.
- (3) Third or subsequent False Alarm within a 12 month calendar period: A response fee shall be charged to the alarm owner and billed to the alarm owner in the amount established by the City of Bend Fees Resolution. The fees resolution may include increased fees for each subsequent response. On the third false alarm within a 12 month period, the City may require that the owner of the alarm provide the City with a written action plan to prevent further false alarms. If requested the owner will also provide written proof that the alarm has been examined by an alarm installation or repair business and what steps were taken to repair the alarm.
- (3) If the alarm elicits a response by the Police Department, the City may, in its discretion, stop responding to alarms from that alarm owner. The City will notify the owner or a representative of the owner of its decision to stop responding to the alarm. Upon receipt of either a written mitigation plan to eliminate false alarms or that the alarm has been examined and repaired by an alarm installation or repair company, the City may reinstate response to the alarm.
- (4) The audible feature of any alarm must automatically silence within fifteen minutes of continuous sound from the alarm. If the audible portion is not silent after fifteen minutes, then City personnel responding to the alarm may take whatever measures are required by the situation including, but not limited to, dismantling or disconnecting the alarm. This section shall not apply to Fire Alarms.
- (5) Upon request by City personnel responding to an alarm, a responsible person will respond to the alarm location within 30 minutes of the notification of the request. A failure to respond may, at the City's discretion, result in no further responses to an alarm at that location until such time as a responsible person can respond.

Nothing in this Code shall be interpreted to require any department of the City to respond to any alarm.

CHAPTER 7.10 REGULATORY PERMITS

7.10.010 Regulatory Permit Procedure, Applicability

This Chapter provides general and procedural regulations for City regulatory permits.

No person shall engage in an activity regulated under Chapters 7.15 through 7.35 without first obtaining a permit from the City in compliance with this Chapter and with the applicable provisions specific to the type of permit. The provisions of this Chapter are intended to apply in addition to the provisions of Chapters 7.15 through 7.35, but in the event of a conflict between provisions, provisions in Chapters 7.15 through 7.35 prevail over the provisions in this Chapter.

7.10.015 Permit Duration

Permits shall be issued for one year unless otherwise provided in the permit.

7.10.020 Permit Renewal

- (1) Permit renewal applications shall be submitted prior to the expiration of the permit.
- (2) If the City has received complaints about the permitted activity, the application for renewal of the permit may be reviewed under this Chapter.

7.10.025 Application Requirements

Permit applications shall be made on City forms. Application shall be made at least 30 days prior to the proposed effective date. The signed application shall constitute the applicant's consent to conduct an investigation of the applicant's qualifications. Applicable permit fees in the amount established by Council resolution shall be paid at the time of application. If an application is denied, the City will refund the difference between the fee paid and the City's costs of processing the application

7.10.030 Information from Applicant

The City may require an applicant to provide additional information. Failure to provide the additional information or providing false or misleading information is grounds for denial or revocation of the permit application.

7.10.035 Criteria for Grant or Denial

The permit shall be denied if:

- (1) The activity does not comply with this Code or other applicable law or regulation;
- (2) The applicant does not meet City standards;
- (3) The permitted activity would endanger property or public health or safety;
- (4) The applicant's past or present violation(s) of law or ordinance presents a reasonable doubt about the applicant's ability to perform the permitted activity without danger to property, or public health or safety; or
- (5) The application contained a knowingly false statement.

7.10. 040 Issuance or Denial by the City

The permit shall be issued if the applicant demonstrates compliance with all standards of this Title. The permit shall be denied if the applicant fails to demonstrate compliance with this Title. The City shall provide written notice of denial listing the reasons for

denial and describing the appeal process. Permits may contain terms and conditions to protect public health and safety.

7.10.045 Suspension of Permit

The City may suspend a permit for non compliance with this Code or applicable federal or state laws and regulations. The suspension shall take effect immediately on oral or written notice delivered to the permittee, agent, or the permittee's business address. Additional notice may be mailed to the permittee stating the reason for the suspension and describing the appeal process. The City may continue the suspension so long as the reason for the suspension exists or until a determination on appeal regarding the suspension is made. For purpose of this section and Section 7.10.045, a permittee is in violation of the Code if the permittee no longer meets the requirements for obtaining a permit.

7.10.050 Revocation of Permit

If the City determines that a permittee is in violation of this Code, state or federal law, it may revoke the permit after 30 days' written notice. The written notice shall state the reason for the revocation and describe the appeal process. A revocation and suspension process may be combined.

7.10.055 Appeal

- (1) The deadline for filing an appeal is 30 days after receipt of the written notice of denial, suspension or revocation. Mailed notice is deemed received three business days after mailing. The appeal shall be filed with the City Recorder and shall state:
 - (A) The name and address of the appellant;
 - (B) The decision being appealed;
 - (C) The reason the decision is incorrect.
- (2) The Council shall hear and determine the appeal on the basis of the written appeal and additional evidence presented prior to the end of the hearing. The appellant shall be provided at least 14 days' written notice of a hearing on the appeal. The appellant may waive the right to an in person hearing and request a decision based on the written appeal.
- (3) At the hearing, the appellant may present testimony and oral argument, personally or by counsel, and any additional evidence. The rules of evidence as used by courts of law do not apply, and the decision of the Council after the hearing is final.

7.10.060 Posting of Permit

The permit shall be posted in a conspicuous place at the site of the permitted activity or otherwise immediately available for inspection.

7.10.065 Transfer or Assignment of Permit

Permits issued under this title are not transferable.

7.10.070 Prorating of Permit Fee

Fees for permits authorized by this Title are not subject to proration.

7.10.075 Penalty

A violation of any provision of this Title is a Class A civil infraction.

CHAPTER 7.15 PRIVATE SECURITY

7.15.005 Definitions: The following definitions apply in this section:

- (1) "Certification" means recognition by the Oregon Department of Public Safety Standards and Training that a private security professional meets all of the qualifications listed in ORS 181.875.
- (2) "Private security professional" means an individual who performs, as the individual's primary responsibility, private security services for consideration, regardless of whether the individual, while performing the private security services, is armed or unarmed or wears a uniform or plain clothes, and regardless of whether the individual is employed part-time or full-time to perform private security services.
- (3) "Private security services" means the performance of at least one of the following activities:
 - (A) Observing and reporting unlawful activity;
 - (B) Preventing or detecting theft or misappropriation of goods, money or other items of value;
 - (C) Protecting individuals or property, including but not limited to proprietary information, from harm or misappropriation;
 - (D) Controlling access to premises being protected;
 - (E) Securely moving prisoners;
 - (F) Taking enforcement action by detaining persons or placing persons under arrest under ORS 133.225;
 - (G) Providing canine services for guarding premises or for detecting unlawful devices or substances.
- (4) "Private security company" means a business that provides private security services to others for compensation.

7.15.010 License Requirements

- (1) No private security company may provide private security services within the City without a City private security company permit.

7.15.015 Applications

- (1) In addition to the requirements of Chapter 7.10, applications for a private security company permit shall provide:
 - (A) Evidence that the private security company employs one or more certified private security professionals;
 - (B) Photographs of the private security company vehicles, uniforms, and badges. If the private security company has not yet acquired vehicles, uniforms or badges, drawings may substitute for photographs;
 - (C) Name, contact information and photograph, in uniform, if applicable, of all persons employed as licensed security professionals.

7.15.020 Application Review

In addition to other application requirements, applicants for private security company permits may be required to meet with the Chief of Police to review the vehicles, uniforms and badges utilized by the private security company.

7.15.025 Standards

- (1) All private security companies shall ensure that their employees conform to the requirements regarding certification prior to allowing them to work in the capacity of a private security professional.
- (2) Private security companies shall ensure that their vehicles, uniforms and badges are in compliance with Bend City Code Chapter 5.40.
- (3) Private security companies shall notify the Bend Police Department in writing within 30 days of the date of separation when a private security professional is no longer employed by the company.

7.15.035 Temporary Suspension

In addition to the bases for suspension authorized by Section 7.10.045, the City may suspend a permit issued to a private security professional when there are reasonable grounds to believe that the permittee:

- (1) No longer meets the requirements for certification;

- (2) Is a suspect of, or has been arrested for, any felony, persons crime or weapons offense.

CHAPTER 7.20 SIDEWALK VENDORS, CAFES AND FURNISHINGS

7.20.005 Sidewalk Permits

- (1) In addition to the requirements of Chapter 7.10, an application for a sidewalk vendor or café permit must:
 - (A) Contain a provision that the applicant holds the City harmless;
 - (B) Be accompanied by evidence of liability insurance at least equal to the City's tort liability limits;
 - (C) Be accompanied by a damage deposit in an amount established by Council resolution.
- (2) City approval is required prior to any changes in operations inconsistent with the permit.

7.20.010 Exceptions to Permit Requirements

The actions authorized by this section do not require a sidewalk vendor or café permit.

- (1) In the Downtown District, businesses may place planters and merchandise displays on sidewalks adjacent to their businesses, provided that an accessible sidewalk passageway of six feet is provided.
- (2) Businesses in the Downtown District that do not sell food or beverages may place chairs and tables adjacent to their businesses, provided that an accessible passageway of six feet is provided

7.20.015 Sidewalk Cafés

- (1) Sidewalks cannot be used for the sale of food or beverages to be consumed at tables on the public property or right of way unless the seller has obtained a sidewalk café permit.
- (2) Sidewalk café permits may be issued if:
 - (A) The applicant lawfully operates a restaurant adjacent to the right of way for which the applicant seeks a permit;
 - (B) The owner of the restaurant property consents to issuance of the permit; and
 - (C) Seating will be limited to no more than 20 persons;

7.20.020 Sidewalk Vendors

- (1) A sidewalk vendor permit is required to sell food, beverages, wares or goods from a public sidewalk or other public property.
- (2) In addition to the generally applicable application requirements, an application for a sidewalk vendor permit shall:
 - (A) Include a drawing or photo of the proposed unit.
 - (B) Provide a complete list of all items the vendor proposes to offer for sale.
- (3) A sidewalk vendor permit may be issued if the following criteria are met in addition to the criteria in Chapter 7.10:
 - (A) The use of the right of way or public property will not interfere with existing utilities, pedestrian use, or pose a hazard to vehicular traffic. There will be an accessible pedestrian passageway of at least five feet. The use will be in compliance with applicable vision clearance requirements.
 - (B) The proposed use of City owned property is not inconsistent with the use for which the property was dedicated.
 - (C) Sales shall be from a self-contained unit no larger than 25 square feet unless specified on the permit. Only the self-contained unit and a single chair for the use of the vendor only may be placed in the public property or right of way unless specifically authorized by the permit. Permittee may only operate at the location specified on the permit.
- (4) The City will create a list or map of locations where sidewalk vendors may operate. The City may change the locations. Permittees may operate at only one of the locations designated by the City Manager. The City shall annually conduct a lottery to assign locations among applicants. Any permittee who has not applied for a Sidewalk Vendors Permit by the time of the lottery shall be allowed to operate at any remaining location on a first-come, first-served basis. Locations assigned to a sidewalk vendor are non-transferable.
- (5) A sidewalk vendor may not sell merchandise within one-half block of a permanent retailer that sells the same type of item. A permit will not be revoked during a calendar year if a permanent retailer moves in to the permanent building after a permit has been issued for that calendar year.
- (6) A sidewalk vendor may not provide customer seating without written City approval.
- (7) No cooking systems may be used unless approved by the Bend Fire Department.
- (8) No sidewalk vendor may operate within the area of any permitted special event

without permission of the event organizer.

7.20.025 Standards for Sidewalk Vendors and Cafes

- (1) Permittee shall maintain the area within ten feet of the activity free from litter and debris at all times. All litter and debris shall be disposed of in the permittee's trash receptacles.
- (2) Permittee is required to clean all surfaces soiled by permittee's use of the public property.
- (3) Any portion of a damage deposit not needed for cleanup or repair will be returned by the City after expiration of the permit. If it is necessary for the City to use all or part of the damage deposit before the permit expires, the City Manager may either revoke the permit or require the deposit of additional money as a condition of continued operation. If the deposit is insufficient to cover cost of damage or cleanup, the permittee will be responsible for all additional costs.
- (4) Permittees may not use the City's storm drainage system to dispose of anything.
- (5) Permittees may not drive motorized vehicles onto City's sidewalks.
- (6) No electrical cords or electrical generators are allowed.
- (7) No permittee may block any public facilities, such as kiosks, disabled access, bike racks, entrances to buildings, or sidewalks.
- (8) Permittees may not place anything, including barricade or signs, on public property or rights of way without written City approval.

CHAPTER 7.25 SECONDHAND DEALERS AND PAWN BROKERS

7.25.005 Definitions The following definitions apply in this Chapter:

- (1) "Electronic report" is a report of information required to be entered by this Chapter on a City-approved website.
- (2) "Dealers" mean persons who are engaged in the business of selling, purchasing, trading, bartering or exchanging secondhand goods. "Dealers" includes pawn brokers.
- (3) "Secondhand Goods" means all personal property which has been used or possessed previously by another and includes previously owned precious metals such as gold, silver and platinum, jewelry, coins, firearms, hand and power tools, and any article with a manufacturer's serial number.

7.25.010 Permit Required

Dealers must obtain a City secondhand goods dealer permit. Agents and employees of a dealer who engage in the purchase of second hand goods must also obtain a permit.

No person may act as a Dealer without a secondhand goods dealer permit.

7.25.015 Exemptions This Chapter does not apply to:

- (1) Used, wrecked or salvaged vehicle dealers;
- (2) Recycling centers;
- (3) The resale of goods acquired as a trade in;
- (4) Sales at flea markets, trade shows or similar organized sales events that operate three or fewer times annually and not to exceed five days per event;
- (5) Used book stores;
- (6) Used clothing stores;
- (7) Scrap metal businesses;
- (8) Not for profit businesses that deal in donated items.

A person claiming an exemption has the burden of proof to establish the exemption.

7.25.020 Permit Application, Review and Issuance

- (1) Applicants shall be fingerprinted by the City and the City may conduct a background check as part of its review of the application.
- (2) The City will issue a photo identification card to approved applicants.
- (3) Grounds for denial or revocation of a dealer's permit include, in addition to the grounds in Chapter 7.10:
 - (A) Conviction of a felony;
 - (B) Failure of the dealer to obtain all necessary zoning, planning, building and sanitation permits for the dealer's place of business;
 - (C) Allowing people who are required to obtain a permit under this section to work as the dealer's employee.

7.25.025 Records Required

- (1) Every dealer conducting business in the City of Bend shall file an electronic report of all purchases of any pawned or secondhand goods as follows: precious metals, jewelry, coins, firearms, hand and power tools, or any article with a manufacturer's serial number. The electronic report must be completely filled out, including an accurate and sufficiently detailed description of the secondhand goods purchased; the name, date of birth, sex, and address of the person from

whom the item was purchased or acquired; the day and hour of the purchase and price paid; serial numbers of secondhand goods purchased, if applicable. If the item purchased is jewelry, a digital image of the item shall be uploaded with the electronic report.

- (2) If the goods are acquired from an entity rather than an individual, the report must provide relevant information on both the entity and its individual agent from whom the goods were acquired.
- (3) Dealers shall keep a copy of all electronic reports for at least two years after entry of the report.
- (4) An ink entry in a permanent City approved daily ledger containing the information required by subsection (1) may substitute for an electronic entry through July 1, 2011. All daily ledgers shall be maintained for at least two years from the date of the last entry in the ledger.
- (5) For all purchases of secondhand and pawned goods, the dealer will inspect and record one of the following:
 - (A) A valid driver's license;
 - (B) A valid state identification card;
 - (C) A valid military identification card;
 - (D) A valid passport, visa or alien registration card with photo.
 - (E) A valid federal firearms license, if the dealer is purchasing secondhand firearms.
- (6) This Chapter does not apply to the following purchases:
 - (A) Purchases made at an auction;
 - (B) Purchases from a dealer licensed or permitted by another local governmental entity;
 - (C) Purchases which are shipped to the dealer from a dealer whose primary business location is outside of Deschutes County.
- (7) No electronic report may be changed, erased, obliterated or defaced once entered other than to correct a mistake.

7.25.030 Regulation of Premises

Police officers may enter and inspect the premises of a dealer at all reasonable times. If any stolen property is found, the police may remove the property and return it to the rightful owner.

7.25.035 Purchases from Minors

No dealer may purchase or acquire from a person under 18 years of age any pawned or secondhand merchandise without written consent of the parents or guardian of the minor.

7.25.040 Retention and Return of Articles

- (1) All secondhand goods that must be electronically reported shall be retained for a period of seven business days from the date that the goods are electronically reported. This subsection does not apply to items that a dealer purchases from other licensed dealers who have complied with this subsection.
- (2) A dealer shall retain any secondhand goods for 15 days when directed in writing to do so by a police officer to allow an investigation as to whether the item is stolen goods.
- (3) A dealer shall promptly turn over to a police officer any item identified as stolen property by any police agency. If requested by the dealer, the police officer shall give a receipt for all items received from the dealer. The receipt shall include the police agency's name, address and case number.

CHAPTER 7.30 SOCIAL GAMING

7.30.005 Social Gaming

- (1) Social gaming, as authorized by state law, is permitted on premises that have obtained a social gaming permit subject to the following restrictions:
 - (A) No person may participate in social gaming other than a player as defined by ORS 167.117(16).
 - (B) No person may act as "house player" or "house bank."
 - (C) All games shall be conducted without house odds.
 - (D) No house income may be generated from the operation of the social game.
 - (E) The person responsible for the premises where social gaming occurs shall not permit any individual who is visibly intoxicated to participate in social gaming.
- (2) The fee for a social gaming permit shall be established by Council resolution and may be based on the number of tables or on any other basis the Council deems appropriate.
- (3) The City may inspect each location where social gaming has been permitted to ensure compliance with the provisions of this Chapter. The inspections may include an annual inspection, and inspections of the public portions of the

premises during hours that the premises are open for business. The annual inspection may include a meeting to discuss the requirements of this Chapter.

CHAPTER 7.35 TAXICABS

7.35.005 Definition

The following definitions apply in this Chapter:

- (1) "Taxicab" means any vehicle, including motor vehicles, animal-drawn vehicles, human-powered vehicles, and limousines, used for transporting passengers for hire, but not including buses and not including self-driven vehicles.
- (2) "Operate" means to pick up passengers within the city or from City-owned property and transport the passengers for a fare.

7.35.015 Application

- (1) Application for taxicab operator permit driver shall be on City forms. The applicant must provide a complete set of fingerprints. The City may require additional information to be submitted with the application.
- (2) A permit may be denied if the applicant has been convicted of any felony or misdemeanor crime against persons. A permit shall be denied for any registered sex offender.

7.35.020 Identification Card

- (1) Upon approval of a taxicab driver's permit and payment of the fee, the City shall furnish the taxicab driver with a photo identification card.
- (2) The identification card shall not be transferable and shall be readily available for inspection.

7.35.025 Insurance

Any person owning a taxicab operated within the city shall obtain and maintain all risk insurance with a per incident policy limit of at least \$1,500,000. Taxicabs for which insurance certificates have been previously provided to the City may operate with previously established insurance levels until July 1, 2011. The insurance must remain in effect at all times the taxicab is operated within the city of Bend. A certificate of insurance must be provided to the City, and the City must be given at least 30 days prior notice of cancellation of the insurance. No holder of a taxicab driver's permit may operate a taxicab that does not have the required insurance.

7.35.030 Temporary Suspension

The City may suspend a permit issued to a taxicab driver when there are reasonable grounds to believe that the driver is incompetent or if the permittee no longer meets the requirements of this Code or uses the taxicab for criminal activities. A driver whose permit is suspended by the City may appeal the suspension within five days.

CHAPTER 7.40 SPECIAL EVENTS

7.40.005 Definitions

The following definitions apply in this Chapter:

- (1) Accessibility Plan A written plan, including a detailed site map, addressing accessibility needs for the event. The plan should include accessible parking, seating, sanitary facilities, communications, route(s) of travel, signage, loading zone, transportation, facilities, sales/display venues, assisted listening devices, and other amenities to the extent that these elements are provided to the public. The plan will also address how people with disabilities will be evacuated, if an emergency occurs.
- (2) Beer Garden A temporary outdoor facility located on public property or premises open to the public for dispensing beer or wine in accordance with a Special Beer or Wine License issued by the Oregon Liquor Control Commission. The term does not include the licensed dispensing of alcoholic beverages at Vince Genna Stadium or a temporary Special Dispenser License issued to a Dispenser by the Oregon Liquor Control Commission for use upon the premises of the licensee.
- (3) District The area encompassed by the perimeter of Newport, Greenwood, Hill, Franklin, Bond, Louisiana, Riverside, Tumalo, and Harmon streets.
- (4) Engineered Structure Any built structure over 10 feet in height or as defined by the Oregon Structural Specialty Code. This does not include premanufactured structures.
- (5) Parade A procession of persons using the public right-of-way and consisting of 10 or more persons or 3 or more vehicles, with the exception of funeral processions.
- (6) Parking Facility Any City owned or managed public parking area in the District.
- (7) Special Event Special events includes all gatherings of more than 150 persons open to the public on public property or right of way. Special event includes parades.

7.40.010 Permit Required

- (1) Special events are prohibited without a City permit.
- (2) No more than three events per month requiring a street closure are allowed in the District during July and August. No more than two events per month requiring a street closure are allowed at any other time.
- (3) A calendar shall be created designating each event, date and location. Existing events have precedence over new events.

- (4) Applications for special event permits must be submitted as far in advance as possible and no less than 30 days in advance of the event unless the event includes a temporary structure requiring approval by the City, in which case the application must be submitted no less than 60 days in advance of the event.

7.40.015 Exceptions

This section does not apply to any event organized and supervised by a public body that does not utilize city property or rights-of-way.

The City may waive the special event permit requirement when no significant public health, safety or welfare issues are involved and when no police service or other City service is determined to be necessary. Examples include family picnics, weddings, and retail parking lot sales.

7.40.020 Permit Required; Fee

- (1) The applicant shall be responsible for reimbursement of costs incurred by the City as a result of the special event. These costs may include any expenses or lost revenue incurred by the City. The City may require a deposit to cover anticipated costs. After the event, the City shall determine its actual costs and require payment if the deposit wasn't sufficient for costs incurred, and shall refund any unspent portion of the deposit.
- (2) Each application shall state a description of the event, an accessibility plan, parking plan, vehicle traffic flow plan, sanitation plan, fire protection plan, map showing the location to be used for the event, and the number of persons reasonably anticipated to attend. In the event an engineered structure over 10 feet in height is to be used as part of the event, the applicant must provide plans certified by a design professional certifying the structure to be sound and to withstand wind load requirements.
- (3) For parades, the application shall also include the route of the parade and assembly points, the proposed starting and ending time and the estimated number of participants (persons, vehicles and animals). The City may deny parade permits to avoid impact on transportation and businesses.

7.40.025 Sanitary Facilities

The applicant shall provide sanitary facilities that are in accordance with applicable regulations and proof that the necessary permits have been procured.

7.40.030 Fire Protection Standards

Events shall comply with the Oregon Fire Code and provisions in the Bend Code related to fire protection.

7.40.035 Accessibility

The applicant shall comply with the Americans With Disabilities Act of 1990.

7.40.040 Public Safety

- (1) Adequate traffic control, fire control personnel and equipment, and crowd control and security shall be contracted for or otherwise provided by the applicant, and shall conform to the standards required by the City.
- (2) Security personnel may be required to wear appropriate identification.
- (3) It shall be the duty of the security personnel to report any violations of law to the appropriate law enforcement agency.
- (4) Access to public infrastructure must be maintained through the entire event as required by the City. The City may require event facilities to be located away from items such as hydrants, water valves, manholes and storm drains to ensure proper access.
- (5) No objects may be thrown to onlookers by parade participants during a parade.

7.40.045 Parking Facilities

Adequate parking facilities will be available for the event. Accessible parking facilities and transportation shall be shown in the parking plan.

7.40.050 Temporary and Prefabricated Structures

If the event includes temporary structures, prefabricated structures or site built structures such as bleachers, elevated platforms, temporary pedestrian bridge or other similar structures, the City may require that structural approval be obtained. Design drawings for any structure over 10 feet in height, including structural calculations and structural drawings must be submitted. The drawings and calculations will be used to facilitate the structural review, permit issuance and site inspections. The City may require that the drawings and calculations be stamped by a licensed professional engineer. The City's review process for structures may require more than 60 calendar days based on the size and scope of the proposed structures.

7.40.055 Facility Inspection

All facilities shall be in place at least two hours before the start of the event so that the City may inspect them. The permit may be suspended or revoked if the facilities fail the inspection.

7.40.060 Animals at Special Events

- (1) No person shall bring an animal into an area where a special event is being held, unless authorized by the City.

- (2) This prohibition does not apply to service animals.
- (3) This prohibition does not apply to events held specifically for animals

7.40.065 Beer Gardens

Alcohol may be served in conjunction with an assembly only in an approved beer garden, under the following conditions:

- (1) The applicant has obtained a special retail beer or wine license from the Oregon Liquor Control Commission and City approval.
- (2) The applicant must pay the fee set by Council resolution.
- (3) The event organizer is responsible for security in the beer garden during the event. Security at a minimum shall include checking identification to assure alcohol consumption only by persons 21 and older, monitoring participants for indications of intoxication and /or disruptive behavior.
- (4) All beer gardens will provide monitoring of the City approved perimeter.

7.40.070 Street Closure

- (1) No city street will be closed for a special event unless the City has approved the closure. Applications for closures of arterials and collectors shall be submitted no less than 30 days in advance. If the street to be closed is a state highway, the applicant shall obtain approval from the Oregon Department of Transportation.
- (2) Requests for street closures in the District will be granted only if the applicant demonstrates that the event cannot be held without a street closure or there is a specified safety reason to close the street(s).

7.40.075 Permit Approval

- (1) Special event permits may be issued if:
 - (A) The application is consistent with this Title;
 - (B) The proposed event will not unreasonably interfere with or detract from the public health, welfare, and safety;
 - (C) The location is available for use and the event will not conflict with another permitted event;
 - (D) The event will not unreasonably interfere with traffic;
- (2) The City may impose conditions of approval for special event permits.

7.40.080 Permit Denial

The City shall deny a special event permit application if it does not comply with this Title. If the permit is denied, the applicant shall be notified of the reason for the denial.

7.40.085 Appeal and Complaint

- (1) Applicant. If the permit is denied, the applicant may appeal the denial to the City Council within five business days.
- (2) Complaint. Any person may file a written complaint regarding a permitted special event within three months after the event takes place. The City will take such written comment into account prior to issuing any subsequent permits for the event. The City will attempt to notify the applicant of all complaints.

7.40.090 Permit Information

A special event permit shall contain the following information:

- (1) Date, time, location of the event;
- (2) Special conditions imposed on the activity;
- (3) Signed acknowledgement by the applicant;
- (4) Emergency contact information;
- (5) A statement that the event permit may be suspended or revoked by the City.

7.40.095 Inspection

The City and its authorized representatives shall have the right to enter the premises to inspect and enforce this Code and state law.

7.40.100 Crowd Limitation

If at any time during the special event the size of the crowd creates a health or safety hazard, the City may require the permittee to limit further admissions.

7.40.105 Interference

No person shall knowingly interfere with the conduct of a licensed special event or authorized activities of an event participant.

7.40.110 Event Banners, Displays and Information

- (1) Any advertising of the event before, during or after the approved event date shall not deface or obstruct City property.
- (2) Signs for parades, races, tours or other mobile events must be temporary and easily removed. Removal of directional or informational signs will be the

responsibility of the permittee. Signs will not impair intersection and crosswalk vision clearances for pedestrians and motor vehicle operators.

- (3) If road markings are used, only biodegradable, water-soluble material may be used. Such material as chalk, flour and tape are acceptable but must be removed within 24 hours after the event. Sidewalks shall not be stenciled, painted, or marked in any fashion without express permission from the City.
- (4) Temporary signs within the event area are not subject to the City's sign code during the special event.

CHAPTER 7.45 MOBILE HOME PARK CLOSURES

7.45.005 Purpose and Intent The purpose of these provisions is to protect public health and safety. The provisions are intended to mitigate the adverse impacts of mobile home park closures on park residents by ensuring that the closure is preceded by adequate notice, that the social and economic impacts of the involuntary relocation of tenants associated with the closure are adequately defined, and that relocation and other assistance is provided park residents.

7.45.010 Definitions The following definitions apply in this chapter.

- (1) "Appraisal" means a written statement independently and impartially prepared by a qualified and licensed appraiser setting forth an opinion of defined value of real property as of a specific date and meeting professional standards for an appraisal.
- (2) "Closure of a manufactured home park" means the termination of manufactured home space rental agreements for all or a portion of the park spaces for the purpose of ceasing; to use all or a portion of the park as a manufactured home park. Termination of tenancy for violation of rental agreements or park rules, actions required by the exercise of eminent domain or by order of State or local agencies shall not constitute closure of a manufactured home park.
- (3) "Comparable manufactured home park space" means any space, lot, or parcel of land in Deschutes, Jefferson, Crook and northern Klamath Counties that is (1) decent, safe, and sanitary; (2) adequate in size to accommodate the manufactured dwelling; (3) within the financial means of the displaced tenant (the higher of rent not greater than current rent of tenant or a rent, with mortgage on home if applicable, that is not greater than 30% of tenants income) ;
- (4) "Manufactured home" means a manufactured home, mobile home or residential trailer as these terms are defined in ORS 446.003(26).
- (5) "Manufactured home park" means place where four or more manufactured homes are located in a residential zone, the primary purpose of which is to rent space or keep space for rent to any person for a fee as defined in ORS 449.003(27). Manufactured Home Parks not defined under this section must still

complete the closure impact report prior to closing.

- (6) "Owner" means a mortgagee in possession and means one or more persons, jointly or severally, in whom is vested all or part of the legal title to a manufactured home park or all or part of the beneficial ownership and a right to present use and enjoyment of the manufactured home park. Owner includes an authorized representative of the Owner.
- (7) "Owner-Tenant" means a person who owns and occupies a manufactured dwelling in a manufactured home park. For the purpose of this chapter, a tenant does not include a tenant who has accepted an earlier termination date or contracted with the landlord as provided in ORS 90.630(6)(a) or (b).

7.45.015 Manufactured Home Park Closure Permit

- (1) Permit Required. No person may close a manufactured home park unless a manufactured home park closure permit has been obtained. Provided, however, that nothing in this section is intended to limit or regulate in any manner a person's ability to: a) to apply for and obtain a plan amendment, zone change, or other land use decision pursuant to the City's Comprehensive Plan or Zoning Ordinance; b) sell, convey or transfer a manufactured home park; or c) provide notification pursuant to Oregon State Law.
- (2) Scope of Permit Requirement, Construction. These provisions shall be construed as not to conflict with state law and shall be applied in a manner such that the provisions and state law operate concurrently.
- (3) Application Filing. Applications for closure permits shall include the following information as may be required by this chapter and the City Manager or City Manager's designee:
 - (A) A detailed narrative description of and timetable for the proposed closure;
 - (B) A report on the impact of the closure of the manufactured home park on its residents pursuant to Section 7.45.020;
 - (C) The Payment Plan pursuant to Section 7.45.025;
 - (D) Notice pursuant to Section 7.45.030;
 - (E) The application filing fee in an amount established by the City Council.
- (4) Application Processing: Upon receipt of a complete application, the City Manager or designee shall review the application and within 45 days of the receipt of the complete application, issue a decision either denying the application, approving the application, or approving the application with conditions. A decision of the City Manager or designee may be appealed to the Council by the owner of the park.

7.45.020 Closure Impact Report

- (1) Any person filing an application for a Closure Permit shall file a Closure Impact Report on the impact of the closure, change of use, or cessation of use upon the residents of the manufactured home park. The Closure Impact Report shall include the following, as well as any other information deemed necessary and appropriate by the City Manager or Designee.
 - (A) A detailed description of the manufactured home spaces within the manufactured home park, including but not limited to:
 - (1) The total number of manufactured home spaces in the park and the number of spaces occupied;
 - (2) The length of time each space has been occupied by the present resident(s) thereof;
 - (3) The age, size, and type of manufactured home occupying each space;
 - (4) The monthly rent currently charged for each space, including any utilities or other costs paid by the present resident(s) thereof;
 - (5) Name and mailing address of the primary resident(s) and owner if different than occupant of each manufactured home within the manufactured home park. Tenant shall provide this information at request of park owner. Any refusal of cooperation by tenant for this information will negate any benefits for tenant under this Ordinance.
 - (B) The City of Bend will assist the Park Owner and tenants by providing a list of all comparable manufactured home parks spaces within Deschutes, Crook, and Jefferson Counties and northern Klamath County. This list shall include the age of the manufactured home park and the manufactured homes therein, a schedule of rents for each park listed, a listing of the vacancies in the parks and the criteria of the management of each park for acceptance of new tenants and used manufactured homes.
 - (C) A detailed analysis of the economic impact of the relocation on the tenants, including comparisons of current rents paid and rents to be paid at comparable manufactured home parks in Deschutes County, the estimated costs of moving a manufactured home and personal property and any direct or indirect costs associated with relocation to another manufactured home park.
 - (D) A list of the names, addresses and telephone numbers of one or more housing specialists with an explanation of the services the specialists will perform. These services shall include, but not be limited to, assistance in locating a suitable replacement manufactured home park, coordination of

moving the manufactured home and personal property, and any other tasks necessary to facilitate the relocation to another comparable manufactured home park.

7.45.025 Payment Plan

- (1) A Payment Plan for owner-tenants of the manufactured home park shall be submitted for review and approval as part of the application for a Closure Permit. The Payment Plan shall provide, at a minimum, for the following:

- (A) Units That Can Be Relocated – The Owner shall provide a list of each single-wide, double-wide and triple wide unit that can be relocated and the name and contact information for each unit. The Payment Plan for units that can be relocated shall provide for the owner to pay the tenants the amount stipulated by Oregon State Law (ORS 90.505 to 90.840) and, if the Owner utilizes the increased density bonuses provided for in Section 7.45.050., to pay the Owner-tenants the following amounts:

- (1) For each Single Wide Unit an additional \$1,000
- (2) For each Double Wide Unit an additional \$3,000
- (3) For each Triple Wide Unit an additional \$3,500

These additional amounts shall be adjusted annually by the increase, if any, in the Consumer Price Index (CPI) based on the index published by the US Department of Labor, Bureau of Labor Statistics, using the index US City Average, All Items, All Urban Consumers, Not Seasonally Adjusted (1982-84 = 100).

The park owner is not required to provide the additional amount(s) stated above to the tenant until such time as the manufactured home unit has been removed from the park.

In the event that the Owner does not utilize the density bonus program contained in Section 7.45.050, the City may pay Owner-tenants these amounts, subject to budgetary authority approved by the City Council prior to the subject fiscal year and subject to Council's right to limit the total amount of payments on an annual basis.

- (B) Units that cannot be relocated – (1) The payment plan shall identify those manufactured homes that cannot be relocated to a comparable manufactured home park space in Deschutes, Crook, Jefferson Counties and northern Klamath County. This list shall include the name and contact information for each Owner-Tenant. In the event that the Owner utilizes the density bonus program contained in Section 7.45.050, the Owner shall be required to offer to purchase any manufactured home that cannot be relocated in conformance with this chapter. The offer to purchase the manufactured home will be made at the greater of the:

The Real Market Value, per Deschutes County Property Records, of the home as reported on the most recent property tax assessment roll

OR:

the amount required by Oregon State Law (HB 2735 ORS 90.505 to 90.840).

- (2) The Owner shall be responsible for the cost of disposal of the mobile home park unit for those units that cannot be relocated.

7.45.030 Required Notifications

- (1) Any written notice by the landlord of termination of a rental agreement because of facility closure and the land or leasehold being converted to a different use shall conform with the requirements of ORS 90.630 and provide at least the following information:
 - (A) The landlord's or representative agent's address for contact and communications;
 - (B) The firm date set for the closure of the facility or of the relevant portion of the facility;
 - (C) The actions and activities the landlord plans to take in the facility closure that may affect the facility tenants;
 - (D) The landlord's obligations under ORS 90.630(5), (6), (7) and (8);
 - (E) The tenant's rights under ORS 90.630(4) for a 365-day closure notice or 180-day closure notice, as applicable, including the right, if any, for payment of moving expenses under OAR 813-008-0030 and the eligible moving expenses defined under OAR 813-008-0025;
 - (F) The voluntary benefits, if any, to be provided to the tenant by the landlord or contracted between the parties, together with any shortened period between notice and termination of the rental agreement arising therefrom;
 - (G) A copy of ORS 90.630 and of OAR Chapter 813, Division 008;
 - (H) Any definitions referenced within these rules applicable to the tenant's rights under these rules; and
 - (I) A description of any City or County regulations, laws, or ordinances that apply to tenant interests in facility closures.
 - (J) A list of the names, addresses and telephone numbers of one or more housing specialists with an explanation of the services the specialists will

perform. These services shall include, but not be limited to, assistance in locating a suitable replacement manufactured home park, coordination of moving the manufactured home and personal property, and any other tasks necessary to facilitate the relocation to another comparable manufactured home park.

- (2) Notices required by ORS 90.630 or by these rules shall be delivered personally or by first class mail to each affected tenant or tenant organization. If served by mail, the minimum period before facility closure shall be extended by three days, and the notice shall recite the fact and extent of the extension. The notice shall be delivered to the tenant at the address specified in the lease or rental agreement between the tenant and the landlord. In any sublet unit, the notice shall be delivered to the tenant at his or her current address and to the subtenant in possession. If the tenant's address is unknown and not reasonably discoverable, his or her copy shall be delivered to the subtenant with written instructions to forward it to the tenant. Failure of the subtenant to deliver such copy to the tenant shall not limit the landlord's right to terminate the rental agreement because of facility closure.
- (3) For 365-day closure notices as provided in ORS 90.630(5)(a), the provisions of OAR 813-008-0020 through 813-008-0030 do not apply.
- (4) For 180-day closure notices as provided in ORS 90.630(5)(b), the landlord shall comply with the provisions of OAR 813-008-0020 through 813-008-0030.

7.45.035 Required Findings

- (1) The City Manager may approve a permit for a manufactured home park closure, only if the City Manager finds that the proposed closure meets the following requirements in addition to the other requirements of this Chapter.
 - (A) That the tenants or tenants' association of the manufactured home park have been adequately notified of the proposed closure, including information pertaining to the anticipated timing of the proposed closure;
 - (B) That the payment plan meets the requirements of Section 7.45.025;
 - (C) That, if the owner files a tentative plat or plan for a land division to be created from the closure of a rental manufactured home park, the owner provides all tenants offers and other information required by law.

7.45.040 Conditions of Approval

The City Manager or Designee shall not deny, but must approve or conditionally approve, the permit involving the closure of the park or cessation of the use of the land as a manufactured home park, provided the applicant has properly complied with the requirements of this ordinance and there is no evidence that the applicant or prior owners have attempted to evict or otherwise cause the removal of residents for the purpose of avoiding the requirements of this Chapter.

7.45.045 Enforcement

Violations. Any person who closes a manufactured home park without a permit, who fails to comply with the requirements of this chapter or the conditions of the permit, or who willfully makes an untrue or misleading statement of material fact or willfully omits required information in the process of application, or whose actions, through the raising of rent or otherwise, objectively manifests an intent or effort to avoid the requirements to this Chapter, shall be guilty of a violation. Notwithstanding any other provision of this code, the penalty for any such violation shall be not greater than \$1,000. Each day of non compliance shall constitute a separate violation.

7.45.050 Affordable Housing Density Bonus

The City's Zoning Ordinance authorizes increased density in Manufactured Park Overlay Zones through a Density Bonus Program. To qualify for the Density Bonus Program, the Park Owner must enter into a development agreement that commits to compliance with this Section.

- (1) A minimum of 10% of new units must meet the following affordability requirements:
 - (A) The Owner must offer to qualified tenants who are being displaced and whose units cannot be moved the opportunity to either rent or purchase one of the affordable units.
 - (B) The mortgage/rent for these Tenants shall not be greater than the higher of:
 - (1) Amount of current space rent and mortgage on home;
 - (2) 30 percent of the family's adjusted income per Department of Housing and Urban Development (HUD) standards; or
 - (3) 30 percent of the income for a family at 50% of median income, based upon most recent HUD Income Limits for the Bend Metropolitan Statistical Area (Bend MSA), with family size corresponding to unit size as follows: For one bedroom units the income shall be based upon a family of two. For two bedroom units the income shall be based upon a family of three; for three bedroom units the income shall be based upon a family of four; and for four bedroom units the income shall be based upon a family of six.
 - (C) For rental developments, up to 10% of the newly created affordable units shall have a rent or mortgage that is affordable for a family at or below 30% of Median Income. The number of units that will be required to meet this threshold shall be based upon the income surveys of existing tenants. Income surveys of all existing tenants shall be initiated by the owner and tenants shall be required to provide verification information to the owner

as condition of receiving benefits/housing under this section. Units created as part of this section must be offered to existing tenants whose incomes are at or below 30% of median income.

- (2) Any displaced tenant owner shall be assured of affordable transitional housing and the payment of any necessary and reasonable moving expenses for personal property to relocate from their existing unit to a transitional unit and from the transitional unit to the permanent housing in the new unit. Tenant shall be required to solicit a minimum of two bids from licensed moving companies and shall be required to take the lower of these bids. The allowable transitional relocation expenses shall not exceed:
 - (A) Actual reasonable expenses in moving family or other personal property;
 - (B) Actual direct losses of tangible personal property as a result of moving but not to exceed an amount equal to the reasonable expenses that would have been required to relocate such property, as determined by the City Manager or designee;
 - (C) An amount not to exceed \$4,000, (adjusted annually by the increase, if any, in the Consumer Price Index (CPI) based on the index published by the US Department of Labor, Bureau of Labor Statistics, using the index US City Average, All Items, All Urban Consumers, Not Seasonally Adjusted (1982-84 = 100)), in total for relocation to transitional housing and from transitional housing to permanent housing. However, during the period of transition, tenant will still be required to pay, for rent, the amount stated above in this section and comply with lease agreement and applicable Landlord Tenant Law. Any significant violations of lease will negate tenant rights under this ordinance.
 - (D) Park owners may elect to contract for moving of tenant or may move tenants utilizing other resources, provided that all bonding and insurance is satisfied for the moving of the belongings.
 - (E) Park owners' may provide transitional housing, either on site or off- site to meet the requirements of this section.
 - (F) Tenant owners who cannot qualify for the new permanent unit due to rental history issues, credit worthiness or other factors shall not be eligible for relocation benefits under this section but shall receive compensation for their units as stated in Section 7.45.025. Income alone cannot be a factor in excluding someone from receiving benefits under this section.
- (3) All tenant property in a park under closure notice shall remain secure and all services in rental agreements shall be provided to tenants remaining in park until closure.
- (4) New rental units developed under the density bonus program shall meet the affordability requirements for not less than 20 years, beginning after project

completion and must be offered first to existing tenants in the park. The affordability requirements for the rental units apply without regard to the term of any loan or mortgage or the transfer of ownership. The requirements must be imposed by deed restrictions, covenants running with the land, or other mechanisms approved by the City of Bend, except that the affordability restrictions may terminate upon foreclosure or transfer in lieu of foreclosure. The City of Bend, the owner, or other entity having property rights in project may use purchase options, rights of first refusal or other preemptive rights to purchase the housing before foreclosure or deed in lieu of foreclosure to preserve affordability. The affordability restrictions shall be revived according to the original terms if, during the original affordability period, the owner of record before the foreclosure, or deed in lieu of foreclosure, or any entity that includes the former owner or those with whom the former owner has or had family or business ties, obtains an ownership interest in the project or property. Rent for new units to be occupied by Tenant Owners shall be as stated in this section. All other rental units required to meet the 10% of total unit requirement will have a rent that shall not exceed 30% of income for a family at 50% of median income per HUD Income Limits for Bend MSA and family size will be based upon unit size.

- (5) Subsequent rents for units vacated during affordability period: Units that are vacated by original tenants during the period of affordability shall remain available and rented to low-income tenants. Rents for these units shall not exceed 30% of income for tenants at 50% of median per HUD Income Limits for Bend MSA and family size will be based upon unit size as stated in this section. Owners of rental properties shall be required to submit an annual rent schedule for all units to the City of Bend.
 - (A) Rent Increases: Any increase in rents for assisted units is subject to the provisions of outstanding leases and, in any event, the owner must provide tenants of those units not less than 30 days prior written notice before implementing any increase in rents.
 - (B) Over-income tenants: Units continue to qualify as affordable housing despite a temporary noncompliance caused by increases in the incomes of existing tenants, if actions satisfactory to City of Bend are being taken to ensure that all vacancies are filled in accordance with this section until the noncompliance is corrected.
- (6) New affordable ownership units developed under the MHP Overlay Zone shall be acquired by an existing tenant or homebuyer whose family qualifies as a low-income family, and the housing must be the principal residence of the family throughout the period of affordability. Units shall be first offered to tenants being displaced.
 - (A) Mortgage Amounts: Mortgage for new units shall be as stated in this section for units that are to be sold to existing owner tenants. All other ownership units required to meet the 10% of total unit requirement will have a sales price whose mortgage shall not exceed 30% of income for a family at 80% of median income per HUD Income Limits for Bend MSA

and family size will be based upon unit size.

- (B) Periods of affordability. The newly created/assisted ownership unit must remain affordable for a period of eight years. However, a portion of the gained equity shall be recaptured for a period of 20 years.
- (C) Resale and recapture. To ensure affordability, the property owner/developer must impose either resale or recapture requirements, at its option and upon agreement with the City of Bend. The resale or recapture requirements shall comply with the following standards:
 - (1) Resale. Resale requirements must ensure, if the housing does not continue to be the principal residence of the family for the duration of the period of affordability, that the housing is made available for subsequent purchase only to a buyer whose family qualifies as a low-income family (80% of Median Income per HUD Income Limits for the Bend MSA) and will use the property as its principal residence. The resale requirement must also ensure that the price at resale provides the original -assisted owner a fair return on investment (including the homeowner's initial investment (down payment) and any capital improvement) and ensure that the housing will remain affordable to a reasonable range of low-income homebuyers.
 - (2) Transaction Documents. Deed restrictions, covenants running with the land, or other similar mechanisms must be used as the mechanism to impose the resale requirements. The affordability restrictions may terminate upon occurrence of any of the following termination events: foreclosure, transfer in lieu of foreclosure or assignment of an FHA insured mortgage to HUD. The owner/developer of the property, with approval of the City of Bend, may use purchase options, rights of first refusal or other preemptive rights to purchase the housing before foreclosure to preserve affordability. The affordability restrictions shall be revived according to the original terms if, during the original affordability period, the owner of record before the termination event obtains an ownership interest in the housing.
 - (3) Recapture. Recapture provisions must ensure that the Market Value of the assistance to the homebuyers (real market value of property minus total cost to purchaser at time of initial sale/occupancy), if the housing does not continue to be the principal residence of the family for the duration of the period of affordability is recouped. Deed requirements shall ensure that this recaptured amount of funding is deposited with Neighbor Impact (or designated successor) and shall be utilized, minus administrative costs, to assist a future purchaser of the property. Neighbor Impact will market the property to eligible purchasers. Trust Deeds, Mortgages or other instruments of property transfer executed at

time of sale shall ensure compliance with this section.

- (4) Reduction during affordability period. The Market Value amount to be recaptured shall be reduced on a prorata basis for the time the Owner-tenant homeowner has owned and occupied the housing measured against the required affordability period. This shall be at a rate of 50% per year beginning in year six and accelerating to 100% per year beginning in year eight.
- (5) Shared net proceeds. Upon recapture of Market Value of assistance, 10% of the amount of seller's net proceeds shall be deposited in the City of Bend Affordable Housing Fee Fund to be utilized for affordable housing projects. This requirement shall expire 20 years after project completion.
- (6) Uses of recaptured proceeds. All funding recaptured upon sale of any unit during period of affordability shall be utilized to assist a qualifying low-income homebuyer to purchase the unit. Portion of seller's net proceeds recaptured shall be utilized as stated in this section.

Exhibit B

TITLE XII REVENUE AND TAXATION

CHAPTER 12.15 FEES

12.15.005 Council Resolution

- (1) The City Council may, by resolution, establish and amend fees or service charges (collectively "fees") for any and all services provided by the City. The fee shall not exceed the average cost of providing the service. A list of City fees shall be available for public inspection. The amount of each fee shall be set at an amount calculated to cover the City's full costs of providing the service, except as provided in Subsection B.
- (2) The fee for the following services shall be set at 50% of the cost of providing the service:
 - (A) Sign Permits
 - (B) Ambulance and EMT Services for City and Fire District Residents
- (3) The services for which the City may impose fees include, but are not limited to, all services and categories listed in the City Fees Resolution in effect as of February 15, 2011.

12.15.010 Fee Reduction for Business Relocations Within City

- (1) The following definitions apply in this Section:
 - (A) Eligible business: An existing business (meaning a business in operation as of November 1, 2010) with fewer than 20 total full time equivalent employees.
 - (B) Relocate: To move from one business location in the City to another in the City.
 - (C) Relevant time period: November 1, 2010 through October 31, 2011.
 - (D) Specified fees: Building fees, planning fees and engineering fees. Specified fees do not include sign permit fees, system development charges, in-lieu of fees, fire prevention plan review fees, or the affordable housing surcharge.
- (2) An eligible business that applies for planning approval or building permits within the relevant time period shall be provided a 50% discount on specified fees associated with the application, provided that the cap on total discounts under Subsection (3) has not been exhausted.

- (3) The total discount to all businesses authorized by this section shall not exceed \$50,000. If and when the total amount of discounts provided under this section reaches \$50,000, no further discounts will be available. The discount shall be available on a first come, first served basis.
- (4) Funds shall be transferred from the General Fund to fully compensate any fund affected by the discount authorized by this section.

